

REMARKS

This amendment is in response to the outstanding Official Action mailed September 24, 2003, the shortened statutory period for filing a response having expired on December 24, 2003. In this regard, Applicant submits herewith a three-month extension petition to reset the deadline for responding to the Official Action to and including March 24, 2004. In view of the above amendments and below remarks, reconsideration of the Examiner's rejection is respectfully requested.

The Examiner noted that the formal drawings filed on July 23, 2002 by Applicant included FIGS. 1-18. The Examiner correctly noted that the pending application includes additional FIGS. 19-30. Formal drawings corresponding to FIGS. 19-30 were originally filed concurrently with the filing of the present application on June 19, 2001. Additionally, the originally filed formal drawings included FIGS. 12 and 13, which were not included in Applicant's July 23, 2002 submission. Upon request, Applicant will submit a new set of formal drawings FIGS. 1-30 upon the Examiner's request.

The Examiner has raised a number of issues with respect to Applicant's specification. Specifically, the Examiner states that reference character 24 has been used to designate bottom walls and a receptacle, referring to FIG. 9. As described in the specification, and as shown in FIG. 1, reference character 24 refers to the receptacle defined by walls 22 of the shaft holder 20. This is described in Applicant's specification in paragraph 0050. Applicant requests that the Examiner clarify the objection so that Applicant may amend the specification if the foregoing explanation does not overcome the Examiner's objection.

The Examiner has also objected to reference characters 26 and 28 as both being used to designate a bottom hole. The Examiner's attention is directed to FIG. 10a and paragraph 0053 of the specification. From the foregoing, it is clear that reference character 26 refers to the bottom of the shaft holder 20, while reference character 28 refers to the hole within the center of the bottom of the shaft holder. Accordingly, this explanation overcomes the Examiner's objection to the specification.

The Examiner has objected to claim 31 as to the term "An" which should be the word "an." Applicant believes that the Examiner reference to claim 31 is in error, and has made the correction to the informality with respect to claim 37.

The Examiner has rejected claim 12 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. However, the Examiner has not indicated why claim 12 does not meet the requirements of 35 U.S.C. § 112, second paragraph. In any event, Applicant has made a number of clarifying amendments to claim 12. To the extent that the Examiner believes claim 12 is not in compliance with 35 U.S.C. § 112, second paragraph, the Examiner is required to specify the particular basis for the Examiner's rejection. Applicant has also amended claim 15 to overcome the Examiner's informal rejection based on insufficient antecedent basis for the claim limitation. Accordingly, all claims are in compliance with the provisions of 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claims 1-4, 6, 13, 16, 17, 20, 23-26 and 28-40 under 35 U.S.C. § 102(b) as being anticipated by *Oddsen* WO 00/25640 in view of *Zerbst*, U.S. Patent No. 2,062,156. The Examiner states that *Oddsen* discloses a

shaft holder, a first member with first and second flanges, a second member with third and fourth flanges, openings, threaded members, a clamping plate; and a method of mounting these elements. The Examiner states that *Zerbst* teaches that it is known to have a pin 24 on one element 15 and a corresponding hole or opening in an attaching member 13 to receive the pin, therefor preventing the element 15 from twisting relative to the attaching member 13. The Examiner states it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified *Oddsen* to have included the pin on each of the third and fourth flanges of the second member and an opening in the first member flange for the purposes of holding/and aligning, and therefore preventing twisting of the first member relative to the second member. The Examiner further states that it would have been obvious to have included a pair of pins to the third and fourth flanges of the second member, and a pair of openings in the first and second flanges of the first member since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art which would produce the expected result of a more secure attachment of the first member to the second member and ensure that the members would not twist relative to one another.

Further, the Examiner states it would have been an obvious matter of design choice to have the pins noncircular, since such a modification would have involved a mere change in the shape of a component and would not produce any unexpected results or destroy the invention since the Applicant has not provided a reason for why the pin should be noncircular. The Examiner states that a change in size and shape is generally recognized as being within the level of ordinary skill in the

art. Hence, the Examiner has rejected all claims as being obvious over the combination of the cited references.

The Examiner's rejection of Applicant's claims under 35 U.S.C. § 102(b) is improper as a matter of law and must be withdrawn without consideration of the cited prior art. In this regard, the Examiner states that the claims are anticipated under 35 U.S.C. § 102(b) by the combination of *Oddsen* in view of *Zerbst*. Anticipation under 35 U.S.C. § 102(b) requires that a single prior art reference disclose each limitation of the claim. *In re Cruciferous Sprout Litig.*, 64 U.S.P.Q.2d 1202 (Fed. Cir. 2002). It is legally improper for the Examiner to consider Applicant's claimed invention anticipated by combining the teachings of more than one prior art reference as the Examiner has done. As neither *Oddsen* nor *Zerbst* discloses each and every limitation of Applicant's claims, the Examiner's rejection must be withdrawn. Notwithstanding the foregoing, and to advance prosecution of the application, Applicant makes the following comments with respect to the cited prior art.

The Examiner in the Official Action as a basis for rejecting Applicant's claims, states the *Zerbst* teaches that it is known to have a pin 24 on one element 15 and a corresponding hole or opening in an attaching member 13 to receive the pin, therefore preventing the element 15 from twisting relative to the attachment member 13. Applicant disagrees that *Zerbst* teaches the use of a pin that is capable of preventing twisting between element 15 and the attachment member 13.

More specifically, the pin 24 in *Zerbst* is a cylindrical body received within a corresponding cylindrical hole in the attachment 13. Without more, the attachment member of *Zerbst* would be free to twist and rotate about the cylindrical pin. Accordingly, the use of a single cylindrical

pin as suggested by the Examiner as being taught by Zerbst will not prevent twisting between element 15 and the attachment member 13.

Zerbst discloses that the function of the pin 24 is for alignment purposes. Specifically, Zerbst teaches that the proper position of attaching attachment member 13 to element 15 is achieved by the pin 24 being inserted into one of the openings in the attachment member. (See col. 2, lns. 64-74.) In order to maintain the plate holder in a fixed erect position, Zerbst teaches the requirement for the use of a bolt 25 and its associated nut, in combination with the aforementioned pin. (See col. 2, lns. 74 et seq.) Accordingly, there is no disclosure in Zerbst of using the cylindrical pin 24 as a sole means for preventing twisting between element 15 and attachment member 13. Rather, contrary to Applicant's claimed invention as to be discussed hereinafter, Zerbst requires the additional use of a bolt and nut. (See FIG. 3 of Zerbst.)

Contrary to Zerbst, Applicant's claimed invention precludes twisting between the first and second members in accordance with either of two disclosed embodiments. In the first embodiment, a single pin can be used, provided the pin has a noncircular shape. The insertion of a single pin of noncircular shape into a correspondingly shaped opening will prevent twisting between the two members. Where a circular shaped pin is used, a pair of such pins is required for insertion into corresponding circular shaped openings. What should be apparent to the Examiner is that the use of a single cylindrical pin cannot by itself prevent twisting between two members. Applicant having recognized this fact, incorporates either a noncircular shaped pin, or at least a pair of circular shaped pins as set forth in the claims.

There was no disclosure in Zerbst of Applicant's claimed invention of using either a single pin of noncircular shape or a pair of spaced-apart circular pins to prevent twisting between first and second members. Contrary to Applicant's claimed invention, Zerbst only teaches the use of a single cylindrical pin that will not preclude twisting. Accordingly, the Examiner's rejection of Applicant's claims is considered traversed and should therefore be withdrawn.

The Examiner has raised a provisional obviousness-type double-patenting rejection of Applicant's claims over the claims of Applicant's copending Application Serial No. 09/406,531 in view of Zerbst. For those reasons stated hereinabove, the Examiner's provisional obviousness-type double-patenting rejection is considered traversed and should therefore be withdrawn.

In considering Applicant's within response, Applicant designates the rejected dependent claims as being allowable by virtue of their ultimate dependency upon submittedly allowable independent claims. Although Applicant has not separately argued the patentability of each of the dependent claims, Applicant's failure to do so is not to be taken as an admission that the features of the dependent claims are not themselves separably patentable over the prior art cited by the Examiner.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

Application No.: 09/884,540

Docket No.: INNOFF 3.0-011

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: March 19, 2004

Respectfully submitted,

By 

Stephen B. Goldman
Registration No.: 28,512
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

483405_1.DOC